Sheet

Approved for use thr 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. ARTMENT OF COMMERCE
To pursons are brighted to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/08A (08-00) 0/31/2002. OMB 0651-0031 PARTMENT OF COMMERCE

Under the Paperwork Reduction Act of j

DC7 2 1 2003 Substitute for form 1449A/PTO

INFORMATION DESCL STATEMENT BY APPLICANT

> (Use as many sheets as necessary) of 1

| Complete if Known | | | |
|-------------------------------|--------------------|--|--|
| Application Number 08/968,208 | | | |
| Filing Dat | November 12, 1997 | | |
| First Named Inventor | Russell G. Higuchi | | |
| Group Art Unit | 1743 | | |
| Examiner Name J. Snay | | | |
| Attorney Docket No. 4380US | | | |

| 1, 11 |
|--|
| MM |
| /X/ \ \ |
| │ |
| • |

| | U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|-----------------------|-----------|---|--|--|--|
| Examiner Initials* | | | Name of Patentee or Applicant of Cited Document | Date of Publication of Cited Document MM-DD-YYYY | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear | |
| 1/8 | 21 | 3,856,470 | B1 | Cullis et al. | 12/24/74 | |
| go | 22 | 3,999,868 | B1 | Sanz et al. | 12/28/76 | |
| | | | | | | |
| | | | | | | |
| | | - | | | | |
| | | | | | | |
| | | | | | - | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

3

| | Cite | | Foreign Patent Document | | Name of Patentee or | Date of Publication | Pages, Columns, Lines | |
|-----------|-------|---------------------|-------------------------|------------|-----------------------------|------------------------------|---|-----|
| Initials* | No. 1 | Office ³ | Number ⁴ | (if known) | Applicant of Cited Document | of Cited Document MM-DD-YYYY | Where Relevant Passages or Relevant Figures Appear | T⁰ |
| 9 | 23 | GB | 1,486,210 | | Suovaniemi | 9/21/77 | | |
| D | 24 | DE | 26 51 536 | A1 | Eppendorf | 5/11/78 | 1 | - X |
| as | 25 | EP | 0487218 | A1 | Tosoh | 05/27/92 | | S |
| | | | | | | | | ** |
| | • | | | | | - | ¥.: | 3 |
| | | | | | | | : 14 | |
| | | | | | | | þend | |
| | | | | | | | . 0 | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | , | | | |

| Examiner | | Date | |
|-----------|------|-------------------|---|
| | | | , |
| Signature | 1.10 | Considered 9-1-01 | , |
| | | | |

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number. ² See attached Kinds of U.S. Patent Documents. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ¹ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231. 60476_1

Sheet

PTO/SB/08A (08-00) /31/2002. OMB 0651-0031 ARTMENT OF COMMERCE Approved for use throu U.S. Patent and Trademark Office: U.S. SARTMENT OF COMMERCE uired to respond to a collection of information unless it displays a valid OMB control number.

Some snores on Cesta * Under the Paperwork Reduction Act of

Substitute for form 1449A/PTD

OCT 2 4 2003

INFORMATION DESCLOS STATEMENT BY APPLICANT

(Use as many sheets as necessary)

3

| Complete if Known | | | |
|--------------------------------|--------------------|--|--|
| Application Number 08/968, 208 | | | |
| Filing Date November 12, 1997 | | | |
| First Named Inventor | Russell G. Higuchi | | |
| Group Art Unit | 1743 | | |
| Examiner Nam J. Snay | | | |
| Attorney Docket No. 4380US | | | |

| | OTHER ART - NON PATENT LITERATURE DOCUMENTS | | | | |
|-----------------------|---|---|----------------|--|--|
| Examiner Initials* | Cite No. 1 | include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T² | | |
| gs | 26 | Advertisement for Perkin Elmer Cetus GeneAmp® PCR System 9600, 1991, BioTechniques 10(2): | | | |
|) | 27 | Cardullo et al., 1988, Proc. Natl. Acad. Sci. USA 85:8790-8794 | | | |
| | 28 | Derwent Abstract for SU1702312-A1, 1986 | | | |
| | 29 | Derwent Abstract for Japanese Patent Application JP63119672-A, 5/24/88 and Patent Abstracts of Japan for Japanese Patent Application JP63119672-A, published 5/24/88 | | | |
| | 30 | Eppendorf Product Literature, September 1973 | Х | | |
| | 31 | FluoroLog-2 Spectrofluorometer Manual (publication date unknown) | | | |
| | 32 | Holland et al., 1991, FASEB 5(4):A261 | | | |
| | 33 | Literature Express Circle 245, 1990, BioTechniques 9(5):650 | | | |
| | 34 | McCleod, 1990 J. Med. Eng. Tech. 14:60-68 | | | |
| | 35 | Murakami et al., 1989, Nucl. Acids Res. 17:5587-5595 | | | |
| | 36 | SPEX Catalog (publication date unknown) | | | |
| | 37 | Stufen zum Leben, Piper Verlag, 1987, pp. 5, 193-199 | Х | | |
| | 38 | Wittwer et al., 1990, Anal. Biochem. 186:328-331 | | | |
| | 39 | Dissertation Thesis of Hajo Otten, "Ein Beitrag Zur Durchführung von Kontrollierten Evolutionsexperimenten mit Biologischen Makromolekülen," pp. 1-17 (publication date unknown), English language translation of the text bridging pages 16-17, beginning with the heading "2.5 Machinenexperimente" | X (in part) | | |
| | 40 | Eigen, 1987, "New Concepts for Dealing with the Evolution of Nucleic Acids," Cold Spring Harbor Symposium on Quantitative Biology, Vol. LII, pp. 307-319 | | | |
| | 41 | Eigen, allegedly April 18-20, 1991, "Report on Evolution Research," Department of Biochemical Kinetics, Max Planck Institut für Biophysikalische Chemie, cover page, title page and pages i-iii and 48-56 | | | |
| B | 42 | Declarations of Drs. Manfred Eigen, Ruthild Winkler- Oswatitsch, Björn Lindemann, Andreas Schwienhorst and Rolf Günther from the file history of EP 0 583 265 | х | | |

| Examiner | 7/2 | _ | Date | 61-1 04 |
|-----------|-----|---|------------|---------|
| Signature | 7.0 | | Considered | 7-1-07 |

^{*}EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number. ² Applicant is to place a check mark here if English language Translation is attached.

Approved for use thro

Approved for use thro

J31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. ARTMENT OF COMMERCE uired to respond to a collection of information unless it displays a valid OMB control number.

* Under the Paperwork Reduction Act of 1995, popularion state (su Complete if Kn wn OCT 2 4 2003 Substitute for form 1449A/PTO **Application Number** 08/968,208 Filing Date INFORMATION DESCLOS Nov mber 12, 1997 First Named Inventor Russell G. Higuchi STATEMENT BY APPLIES **Group Art Unit** 1743 **Examiner Name** J. Snay (Use as many sheets as necessary) 4380US 3 Attorney Docket No. Sh et 3

| Opposition Papers submitted by Bio-Rad Inc. in corresponding European Patent EP 0 872 562 | |
|---|---|
| 10 Butopean Facence Br 0 072 302 | |
| Opposition Papers submitted by the Secretary of State for Defence, UK in corresponding European Patent EP 0 872 562 | |
| Opposition Papers submitted by Bibby Sterilin Ltd. in corresponding European Patent EP 0 872 562 | |
| 46 Opposition Papers submitted by Eppendorf AG in corresponding European Patent EP 0 872 562 | X |
| 47 Annex 2 from cite 46, above | X |
| 48 Opposition Papers submitted by Cepheid Inc. in corresponding European Patent EP 0 872 562 | |
| Notice of Intervention submitted by MJ Research, Inc. in corresponding European Patent EP 0 872 562 | |
| Decision of Preliminary Injunction from Japanese Litigation H14 (Yo) No. 22065 (English Translation only) | X |
| | |
| | |
| | |
| | |
| | |
| | • |
| | |
| | • |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| i i | |
| - - | |

| Examiner | Date , , , / |
|--------------|-------------------|
| Signature /. | Considered 4-1-59 |

^{*}EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number. 2 Applicant is to place a check mark here if English language Translation is attached.